

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA**

**DAVID ANTHONY HARRIS,**

**Petitioner,**

**v.**

**Civil No. 3:07cv163  
(Judge Bailey)**

**WARDEN JOE DRIVER,**

**Respondent.**

**ORDER GRANTING IN FORMA PAUPERIS BUT REQUIRING  
PETITIONER TO PAY THE \$5.00 FILING FEE**

On December 12, 2007, the *pro se* petitioner initiated this case by filing a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. On that same date, the plaintiff filed a Motion for Leave to Proceed *in forma pauperis* and a sealed Prisoner Trust Fund Account Statement.

All litigants are required to pay the costs and fees associated with civil lawsuits unless their financial condition warrants a grant of *in forma pauperis* status pursuant to 28 U.S.C. § 1915. On November 21, 2007, the plaintiff had \$0.00 in his prisoner trust account. However his previous six months deposits total \$620.00 , for an average of more than \$100 per month. In addition, his average daily balance for the previous six months was \$27.92, while his average balance for the previous thirty days was \$6.82, with a maximum balance during that period of \$66.10.

Accordingly, the petitioner is GRANTED *in forma pauperis* status. However, because petitioner's trust account history reflects that he routinely has income sufficient to pay the required filing fee, petitioner will be required to pay the \$5.00 filing fee within **thirty (30) days** from the date of this Order. **Failure to pay the \$5.00 fee within the required time period will result in a**

**recommendation that his case be dismissed.**

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested, to his last know address as reflected on the docket sheet.

Dated: December 13, 2007.

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE